

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Criminal Bail Application No.D-138 of 2026

**Before:
Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'**

Applicant : Shah Nawaz son of Ghulam Hyder
Mahar, *through* Mr. Shahbaz Ali M.
Brohi, Advocate.

The State : *Through* Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh.

Date of hearing : 08.10.2026.
Date of decision : 08.10.2026.

ORDER

Ali Haider 'Ada' J:- Through this bail application, the applicant seeks post-arrest bail in F.I.R. Crime No.21 of 2026, registered at Police Station Garhi Yasin, District Shikarpur, for an offence punishable under Section 9(1)(3)(C) of the Control of Narcotic Substances Act, 2024. Prior thereto, the applicant moved a bail application before the learned 1st Additional Sessions Judge/MCTC, Shikarpur, which was dismissed vide order dated 11.07.2026.

2. The crux of the prosecution case is that on 10.03.2026, the present applicant was allegedly apprehended along with contraband material, namely 2,200 grams of Charas, besides cash amounting to Rs.400/-, consisting of denominations of Rs.100/-. The F.I.R. was registered on the same day at about 11:15 a.m.

3. The main contention of learned counsel for the applicant is that, before registration of the aforesaid F.I.R., an application under Section 491 Cr.P.C. had been moved on behalf of the applicant, alleging his illegal detention by the police since 09.03.2026. The said application was moved on 10.03.2026 at about 10:43 a.m., whereas the F.I.R. was registered thereafter at 11:15 a.m. It is, therefore,

contended that the subsequent registration of the F.I.R. creates serious doubt regarding the prosecution version and that the applicant is entitled to the concession of post-arrest bail.

4. On the other hand, learned Deputy Prosecutor General, Sindh, opposed the bail application on the ground that Charas was recovered from the exclusive possession of the applicant; therefore, he is not entitled to the concession of post-arrest bail.

5. Heard and perused the record.

6. At the stage of bail, the material available on record is to be tentatively assessed and scrutinized to determine whether reasonable grounds exist connecting the accused with the commission of the alleged offence. In the present case, the fact that an application under Section 491 Cr.P.C. had already been moved on behalf of the applicant alleging his illegal detention assumes significance. The record reflects that the said application was moved on 10.03.2026 at about 10:43 a.m., whereas the F.I.R. came to be registered thereafter at 11:15 a.m. Thus, the factum of the applicant's detention having been brought before the competent Court prior to registration of the F.I.R. In such circumstances, the possibility of the applicant's subsequent false involvement cannot be ruled out at this tentative stage. Reliance in this regard may be placed upon **Muhammad Hassan v. The State (2019 P.Cr.L.J. Note-10)**, **Muhammad Hussain v. The State (2012 YLR 768)** and **Saban v. Mushtaq Ahmed (1985 P.Cr.L.J. 1721)**.

7. It is further observed that, according to the prosecution case, no independent witness was associated with the recovery proceedings. Although the provisions relating to association of private witnesses may not invariably be applied in *stricto sensu*, yet where the alleged recovery is effected from a busy or populated area, the non-association of independent persons is a circumstance which may be taken into consideration while tentatively assessing the prosecution case.

8. Keeping in view the aforesaid facts and circumstances, a case for further inquiry is made out. Consequently, the instant bail application is allowed and the applicant is admitted to post-arrest bail, subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the learned trial Court.

9. It is also observed that in cases registered under the new enactment, namely the Sindh Control of Narcotic Substances Act, 2024, the Court of the District and Sessions Judge is competent to try such cases. However, the said practice does not appear to have been followed in the present case. Nevertheless, bail cannot be withheld as a form of punishment. The learned District and Sessions Judge, Shikarpur, is therefore directed to examine the matter in accordance with the relevant legal provisions and, thereafter, take such appropriate steps as may be warranted under the law.

JUDGE

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